

Excerpts  
Planning Commission Minutes  
July 14, 2004

**Application No. UP-639-04, Connie Bateman:** Request for a Special Use Permit, pursuant to Section 24.1-407 of the York County Zoning Ordinance, to authorize an accessory apartment (484 square feet) on the second floor of a proposed detached 2-car garage in the RR (Rural Residential) District. The proposed garage will be situated on a yet to be subdivided portion of residential property located at 109 Paradise Point Road (approximately 0.22 acre), which is adjacent to the applicant's principal dwelling at 107 Paradise Point Road (0.58-acre) and which the applicant proposes to incorporate into the boundaries of her lot. The subject properties are further identified as Assessor's Parcel Nos. 25K-(2)-5 and 25K-(2)-4, respectively. The property is designated for Low Density Residential development in the Comprehensive Plan.

**Mr. Earl Anderson**, Planner, reviewed the staff memorandum dated July 2, 2004, in which the staff recommended approval.

**Mr. Davis** asked what the applicant intends for the remainder of lot 109, in front of the proposed garage. **Mr. Anderson** explained that the front portion of the lot is within a Resource Protection Area, and with approval of this use permit will not be built on. That front of lot 109 will be left in its natural state.

**Mr. Davis** wondered if the owner of 109 Paradise Point Road, Mr. Green, would be left with a buildable lot after it is divided between him and the applicant. **Mr. Anderson** said that Mr. Green prefers the proposed plan, which would split the lot between him and Ms. Bateman, because it would preclude another house being built near his.

**Mr. Barba** inquired if other residents of Walters Lane have contacted the staff. **Mr. Anderson** said another homeowner on Paradise Point Road had contacted him with some concerns but withdrew them after talking with Mr. Green.

**Chair Simasek** closed the public hearing.

**Mr. Davis** wanted to know what would happen if the home were to be sold, and **Mr. Simasek** said the use permit, if granted, would stay with the house. **Mr. Carter** added that the use permit conditions would be recorded so that a future buyer would be aware of them.

**Mr. Ptasznik** moved adoption of proposed Resolution PC04-16.

Resolution No. PC04-16

On motion of Mr. Ptasznik, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT  
TO AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 107 AND 109  
PARADISE POINT ROAD

WHEREAS, Connie Bateman has submitted Application No. UP-639-04 to request a Special Use Permit, pursuant to Section 24.1-407(b) of the York County Zoning Ordinance, to authorize a detached accessory apartment in conjunction with a single-family detached dwelling on property located at 107 and 109 Paradise Point Road and further identified as Assessor's Parcel No. 25K-(2)-5 and 25K-(2)-4; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 14th day of July, 2004, that Application No. UP-639-04 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a Special Use Permit, pursuant to Section 24.1-407(b) of the York County Zoning Ordinance, to allow a detached accessory apartment in conjunction with a single-family detached dwelling to be contained within a proposed two-story garage on property located at 107 and 109 Paradise Point Road and identified as Assessor's Parcel No. 25K-(2)-5 and 25K-(2)-4, subject to the following conditions:

1. This use permit shall authorize a detached accessory apartment in conjunction with a single-family detached dwelling to be contained on the second floor of a proposed two-story detached garage on property located at 107 and 109 Paradise Point Road and further identified as Assessor's Parcel No. 25K-(2)-5 and 25K-(2)-4.
2. The apartment shall be contained within the proposed structure as indicated on the plat titled "Plat of the Property of Connie S. Bateman, Lot 4, Village Green, Section A," dated 3/2/04, prepared by Becouvarakis Associates, PC Land Surveying and received by the Planning Division on May 17, 2004. Building plans in substantial conformance with the floor plans submitted by the applicant and received by the Planning Division on May 17, 2004 shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Building Regulation, prior to the issuance of a building permit for the accessory apartment.
3. Not more than one (1) accessory apartment shall be permitted in conjunction with the principal dwelling unit.
4. Habitable floor area of the accessory apartment unit shall not contain in excess of 484 square feet.
5. The accessory apartment unit shall contain no more than one (1) bedroom.

6. Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.
7. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the single-family dwelling.
8. Construction of the detached 2-car garage structure for the purpose of establishing an accessory apartment shall be in compliance with Sections 24.1-372 and 24.1-373 of the County Zoning Ordinance and all applicable State and Federal regulations relevant to development in the FEMA-designated 100-year floodplain.
9. No building permit for the proposed structure shall be issued until such time as a subdivision has been recorded consolidating the lot at 107 Paradise Point Road with a 0.22-acre portion of lot identified as 109 Paradise Point Road. In addition, the remaining portion of 109 Paradise Point Road must be consolidated in a recorded subdivision with the adjoining lot at 111 Paradise Point Road. Approval of the special use permit does not in any way imply or bind the County to approving the subdivision as conceptualized.
10. In accordance with Section 24.1-407(k) of the County Zoning Ordinance, prior to issuance of a building permit for the accessory apartment, the applicant shall be responsible for recording a deed restriction document with the Clerk of the Circuit Court stipulating that the subject accessory apartment will be used, occupied and maintained in accordance with standards and restrictions set forth in Section 24.1-407 of said Ordinance. A Court-certified copy of the document shall be submitted to the County at the time of building permit application.
11. Issuance of this Special Use Permit does not supersede any legally recorded restrictive covenants that may apply to the subject property, nor does it relieve the applicant and/or property owner of any obligation to secure approvals that may be required by a homeowners' association in accordance with said covenants.
12. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

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